

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MAJOR MARGARET WITT,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE  
AIR FORCE; et al.,

Defendants.

Case No. C06-5195-RBL

**ORDER GRANTING PLAINTIFF'S  
MOTION FOR PROTECTIVE ORDER  
PROHIBITING INTERFERENCE  
WITH NON-PARTY WITNESSES BY  
DEFENDANTS**

Pending before the Court is Plaintiff's Motion for Protective Order Prohibiting Interference With Non-Party Witnesses by Defendants. Having considered all argument submitted by the parties and finding good cause, the Court hereby **GRANTS** Plaintiff's motion for a protective order and **HOLDS** that the Department of Defense ("DoD") *Touhy* regulations, specifically 32 C.F.R. §§97.1-.6, DoD Directive 5405.2, and Air Force Instruction (AFI) 51-301, Chapter 9, do not apply to this litigation because the federal government is a party. The Court further **FINDS** that the Defendants' instruction to non-party former and current Air Force employees requiring Air Force consent before non-party former and current Air Force employees may voluntarily speak with counsel for Plaintiff concerning this litigation is contrary to Washington Rules of Professional Conduct 3.4(a).

As a remedy, the Court further **ORDERS** the counsel for Defendants to issue a curative instruction in writing to all current unit members of the 446 AES stating as follows:

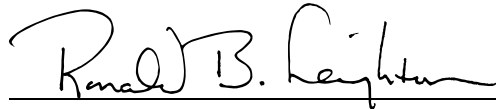
"Instruction re: Witt v. Air Force

Prior briefings regarding required procedures if contacted by Major Witt's attorneys in the above lawsuit are no longer applicable. Thus, unit members do not need to report to Public Affairs or to Command if contacted by Plaintiff's counsel. Unit members do not need permission from DoD personnel to speak with Plaintiff's counsel in the above case. If you are contacted by Plaintiff's counsel you may, but are not required to, talk to that person. Public Affairs and or Command would prefer to have a person present when you are interviewed but cannot require prior consent or impose participation or attendance by a government representative.

The above written briefing overrides any previous contrary briefing regarding this matter."

**IT IS SO ORDERED.**

DATED this 17<sup>th</sup> day of May, 2010.



RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE

Presented By:

DATED this 16 day of April, 2010.

ACLU OF WASHINGTON FOUNDATION

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